

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RASHEEN TABOR LATTNER,

Plaintiff,

-against-

HOPE CALIENDO-SOLOMON; MTA  
NYC TRANSIT AUTHORITY,

Defendants.

**ORDER**

20 Civ. 9508 (PGG)

PAUL G. GARDEPHE, U.S.D.J.:

In this employment discrimination action, pro se Plaintiff Rasheen Tabor Lattner brings claims of, inter alia, disability and sex discrimination against his employer, the New York City Transit Authority, and one of his supervisors, Hope Caliendo-Solomon, pursuant to Title VII of the Civil Rights Act of 1964, the Rehabilitation Act, the Americans with Disabilities Act, and the New York State and City Human Rights Laws. (Cmplt. (Dkt. No. 2)) In a December 14, 2020 order, Chief Judge McMahon granted Plaintiff's request to proceed in forma pauperis. The case was reassigned to this Court on December 16, 2020.

In a November 10, 2020 filing, Plaintiff asks that pro bono counsel be appointed to represent him. (Dkt. No. 3) Plaintiff's application will be denied to the extent that he seeks appointment of pro bono counsel for all purposes. As discussed in the accompanying mediation order, this Court will seek pro bono counsel to represent Plaintiff for purposes of mediation. Plaintiff's application will otherwise be denied without prejudice.

The Court also directs service on Defendants.

## **DISCUSSION**

### **I. REQUEST FOR PRO BONO COUNSEL**

In determining whether to grant an application for pro bono counsel, the Court must consider:

the merits of plaintiff's case, the plaintiff's ability to pay for private counsel, his efforts to obtain a lawyer, the availability of counsel, and the plaintiff's ability to gather the facts and deal with the issues if unassisted by counsel.

Cooper v. A. Sargenti Co., Inc., 877 F.2d 170, 172 (2d Cir. 1989) (per curiam). As a threshold matter, in order to qualify for appointment of counsel, plaintiff must demonstrate that his claim has substance or a likelihood of success. See Hodge v. Police Officers, 802 F.2d 58, 60-61 (2d Cir. 1986).

Here, it is too early in the proceedings for this Court to determine whether Plaintiff's action is meritorious. Accordingly, to the extent that Plaintiff seeks appointment of pro bono counsel for all purposes, his application will be denied without prejudice. Plaintiff may seek appointment of counsel in the future when the merits of this action become clearer. In the meantime, Plaintiff is advised that the Pro Se Office at the United States Courthouse, 500 Pearl Street, Room 203, New York, New York, 10007, telephone number (212) 805-0177, may be of assistance in connection with court procedures.

As noted above, this Court will seek pro bono counsel to represent Plaintiff for purposes of mediation.

### **II. SERVICE ON DEFENDANTS**

To allow Plaintiff to effect service on Caliendo-Solomon and the Transit Authority through the U.S. Marshals Service, the Clerk of Court is instructed to fill out U.S. Marshals Service Process Receipt and Return forms ("USM-285 form") for each defendant. The

Clerk of Court is further instructed to issue summonses for Caliendo-Solomon and the Transit Authority, and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff does not do so.

**CONCLUSION**

Plaintiff's application for appointment of counsel is denied without prejudice. The Clerk of Court is directed to terminate the motion (Dkt. No. 3).

The Clerk of Court is further instructed to issue summonses for Hope Caliendo-Solomon and the NYC MTA Transit Authority, complete the USM-285 forms with the addresses for those defendants, and deliver to the U.S. Marshals Service all documents necessary to effect service on those defendants.

Chambers will mail a copy of this Order via certified mail to pro se Plaintiff Rasheen Tabor Lattner, 400-430 E. 30<sup>th</sup> Street, New York, New York 10016.

Dated: New York, New York  
December 29, 2020

SO ORDERED.

A handwritten signature in black ink, reading "Paul G. Gardephe", written over a horizontal line.

Paul G. Gardephe  
United States District Judge